HON'BLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 7284 OF 1999

Between:

Md. Isamuddin, S/o Muneeruddin, aged 28 years, Challur Post, Veenavanka Mandal, Karimnagar District and others.

...Petitioners

AND

1. The APSRTC represented by its Vice Chairman and Managing Director, Musheerabad, Hyderabad and others.

....Respondents

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WRIT PETITION NO. 7284 OF 1999

ORAL ORDER:

This Writ Petition is filed seeking a writ of Mandamus by way of declaration to declare the action of the respondents in not appointing the petitioners as Drivers Grade-II in the Andhra Pradesh State Road Transport Corporation, pursuant to the notification dated 29.1.1998, as illegal and arbitrary and for consequential direction to appoint the petitioners in the existing vacancies.

2. The second respondent issued a notification on 26.12.1997 in proceedings No. E2/684(14)/97-RM, KR, inviting applications for appointment of 219 posts of Drivers Grade-II, in Andhra Pradesh State Road Transport Corporation. The petitioners have responded to the said notification and they were placed in the first two positions of the list. Basing on the performance in interviews held during the period from 26.12.1997 to 22.1.1998 a merit list was prepared and in the merit list petitioners were shown at serial number 113 and 183, whereas the first petitioner is a candidate appeared from general category and the second petitioner claimed reservation in the vacancies reserved for BC-B. It is their case that though list of candidates selected were prepared for 267 candidates but however only 219 candidates were shown in the list prepared. It is the case of the petitioners that certain selected candidates were not given appointment because some of the candidates were declared un-fit in the medical examination and some other candidates were not

appointed because driving licenses possessed by them were found to be bogus. It is their further claim that though they were in the list of candidates prepared for 267 candidates, instead of appointing petitioners in the resultant vacancies, respondents have not considered their claims.

3. Counter affidavit is filed on behalf of the respondents stating that the candidates were selected for the post of Drivers Grade-II for each community as per the rules of reservation. So far OC category is concerned, last candidate selected, has secured 53 marks and his date of birth is 7.1.1968. It is further stated that the first petitioner also secured 53 marks but his date of birth was 13.1.1969 and as per the selection procedure, he did not come up for selection. So far as the second petitioner is concerned, last candidate for admission to the category of BC-B has secured 52 marks, but however, the second petitioner secured only 51.33 marks. In the additional counter affidavit filed, it stated that the vacancies, which were not filled up pursuant to the earlier notification, either on account of medical un-fitness or as they did not possess valid driving licences, those vacancies were filled up by issuing fresh notification and all the vacancies are filled up.

4. It is the case of the petitioners that as on the date of subsequent notification, the earlier panel prepared was in force and that view of the matter the respondents ought to have considered their claims for appointment before going for fresh notification to fill up the vacancies. However, it is to be considered that pursuant to the notification, a merit list was prepared for 267 candidates and out of them only 219 candidates have been selected which are equivalent to the notify vacancies. Though the petitioners figured at serial number 113 and 183, however, it is to be seen that they were only in the merit list and they were not in the select list. Though the

list of candidates for 219 was prepared but however, the very first petitioner who was at serial number 113, who claimed in the OC category, did not come up for selection and so also the case of the second petitioner, who was at serial number 183 in the merit list, were not selected. As they did not figure in the select list at all, it is not open for them to plead for subsequent resultant vacancies, to be filled up only by the candidates of the merit list. Merit list prepared cannot be equated to panel of candidates and the candidates in the select list, for the purpose of recruitment. Further, it is also stated in the counter affidavit that resultant vacancies, which were not filled up from the first list of selected candidates, on account of medical un-fitness or for lack of possessive genuine licenses, were also notified subsequently and all the vacancies were fill up after following due procedure. In that view of the matter I do not find any merit in the Writ Petition to grant a direction as prayed for.

5. Writ Petition is devoid of merit, and accordingly, the same is dismissed. No order as to costs.

R.
SUBHASH REDDY, J

Date: 05.07.2006
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